

VIRGINIA CODE COMMISSION

Monday, May 17, 2021 - 10:00 a.m.

Electronic Meeting

DRAFT

Meeting Minutes

Members Present: John S. Edwards; Rita Davis; Christopher R. Nolen; Charles S. Sharp; Leslie L. Lilley; Marcus B. Simon; Nicole S. Cheuk; Samuel T. Towell; Malfourd W. Trumbo; Ward L. Armstrong; Don L. Scott, Jr.

Members Absent: Jennifer L. McClellan

Staff Present: Amigo Wade, Scott Meacham, Anne Bloomsburg, Nikki Clemons, Karen Perrine, Stephanie Kerns, Andrew Kubincanek, Division of Legislative Services (DLS); Maryann Horch, Senate Technology

Others Present: Tom Lisk, Chair, Administrative Law Advisory Committee

Call to order: Senator Edwards, chair, called the meeting to order at 10:07 a.m. Pursuant to Item 4-0.01 of Chapter 1289 of the 2020 Acts of Assembly and due to the COVID-19 pandemic state of emergency, the meeting was held electronically over Zoom. Senator Edwards explained the procedures for voting for the meeting.

Approval of minutes: The minutes of the December 7, 2020, meeting of the Commission, as distributed to the members, were approved on motion of Delegate Simon and second by Mr. Towell.

Code Commission Work plan for 2021: Karen Perrine reviewed the proposed work plan for 2021. The first item on the work plan was the recodification of Title 32.1, Health. This recodification was to be completed for presentation of a bill in the 2022 Session of the General Assembly, but the events and circumstances of the last year and a half made this goal impossible. The proposal was to begin recodification of Title 32.1 later this year, when DLS staff would be able to present an outline and recommend members of the workgroup for the Commission's approval. The recodification would carry into 2022. Title 24.2, Elections, is the next title planned for recodification based on a previous decision of the Commission; however, delays in redistricting and the responsibility for campaign finance reform has significantly compromised DLS staff time resulting in a postponement of work in this title until late 2022 or perhaps 2023.

The next item on the 2021 work plan was review of obsolete laws and sections not set out. The Commission has an obligation under § 30-151 of the Code of Virginia to periodically review the Code of for obsolete sections and make recommendations to the General Assembly to amend or repeal the sections. DLS staff proposes the following titles for obsolete law reviews: Titles 12.1, State Corporation Commission; 34, Homestead and Other Exemptions; 42.1, Libraries; 52, Police (State); and possibly Titles 22.1, Education, and 37.2, Health. In addition, the Commission has an ongoing project to review Code sections that currently are codified but the text is not set out in the Code. About 22 Code sections remain to be reviewed.

The next item on the work plan was the continued effort to restructure § 54.1-3408 of the Code of Virginia and related sections, regarding prescribing, dispensing or administering controlled substances. DLS staff recommended restructuring and clarification to provisions in these sections and has been working with the Board of Pharmacy and other stakeholders to complete this restructuring in 2021.

Delegate Simon moved that the work plan be approved, which was seconded by Mr. Ward. The motion passed unanimously.

Report on the 2021 Code Commission bills: Ms. Perrine reported that the two bills the Code Commission sponsored for the 2021 General Assembly session were enacted: recodification of Title 45.1 as Title 45.2 and repeal of § 5.1-178 of the Code, which had become obsolete. Senator Edwards thanked the DLS staff and workgroups that worked on each bill.

Other business:

- Report on Section 1 bills and enactment clauses assigned Code of Virginia numbers. Ms. Perrine stated that the Commission's Executive Committee, during the prepublication review of the Code of Virginia, determined that the Section 1 bills and enactment clauses listed in the chart in the meeting materials be placed in the Code of Virginia rather than remaining as Section 1 bills or enactment clauses. Ms. Perrine stated that no substantive changes were made. No action was required of the Commission.

- Approval to obtain hard bound copy of "Revision of Titles 45.1 and 67 of the Code of Virginia" (Senate Document No. 8, 2020). Ms. Perrine requested a motion to authorize a hard bound version of the recodification report made for Scott Meacham and David Barry as a gift of thanks and appreciation. Senator Edwards thanked both Mr. Meacham and Mr. Barry for their work on the project. Delegate Simon made a motion to approve the hard bound copy, seconded by Mr. Towell, and the motion passed unanimously.

Administrative Law Advisory Committee (ALAC) reappointment of members: Due to technical difficulties, Mr. Lisk was unable to present this item. In his absence, Ms. Perrine explained to the Commission that ALAC members are appointed by the Commission to assist the Commission in matters arising concerning the Administrative Process Act.

Mr. Towell asked how the members of ALAC are selected. Ms. Perrine stated that under § 30-155 of the Code, ALAC members are from state agencies, the Supreme Court, consumer or other public interest groups, local government, the State Bar, or the academic community. Each member serves a two-year term and often recommends replacements upon the member's departure. DLS staff may also seek out appropriate members.

Delegate Simon made a motion to approve the reappointment of the 2021 recommended reappointment members, seconded by Mr. Nolen, and the motion passed unanimously. Delegate Simon made a motion to approve the recommended new members. Mr. Nolen seconded the motion, and the motion passed unanimously.

Ms. Davis asked if the members of ALAC were racially diverse. Mr. Towell said they were not. Ms. Davis recommended that diversity be a priority for future appointments and reappointments.

Public comment, adjournment: Senator Edwards opened the floor for public comment. As there was no public comment and no further business to discuss, the meeting adjourned at 10:39 a.m.

Next meeting: Monday, July 19, 2021, at 10:00 a.m.